

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-17 are drawn to a device analyzer, a human machine interface, a communication component and a processing component that renders, classified in class 706, subclass 60.
 - II. Claims 18-23 are drawn to a device analyzer, an identification component, an artificial intelligence component, a communications component, and a processing component classified in class 706, subclass 60.
 - III. Claims 24-28 and 41-44 are drawn to converting 3 dimensional data into 2 dimensional data or vice versa and displaying the data in disparate views, classified in class 706, subclass 60.
 - IV. Claims 29-32 are drawn to a software object that determines properties, limitations or software plug-ins, a human machine interface generator, and a communications component, classified in class 706, subclass 60.
 - V. Claims 33-34 are drawn to determining formatting requirements, formatting data, delivering the formatted data, classified in class 706, subclass 60.
 - VI. Claim 35 are drawn to receiving data from a physical device to a human machine interface, comparing format of the data to known formats, rendering data, classified in class 706, subclass 60.
 - VII. Claims 36 and 45 are drawn to mapping data path information, determining I/O communications protocol of the physical device, formatting data in accordance

with the device properties, creating one or more software objects, classified in class 706, subclass 60.

- VIII. Claim 37 are drawn to determining properties, limitations, or software plug-ins of the devices, means for delivering the formatted data, classified in class 706, subclass 60.
- IX. Claim 38 are drawn to ascertaining formatting requirements, properties, limitations or software plug-ins, determining whether a format of data is known, determining the format of unknown data received by a Human Machine Interface, rendering the data in the HMI, mapping data path information to data delivered to the physical device, classified in class 706, subclass 60.
- X. Claim 39 and 46-48 are drawn to mapping data path information to data delivered to the device, generating at least one software object, formatting data in accordance with determined properties, creating software objects that represents Input/Output interface of devices, classified in class 706, subclass 60.
- XI. Claim 40 are drawn to determining properties, limitations, or software plug-ins associated with devices, presenting 3-dimensional data as 2-dimensional data or vice versa, displaying data in a plurality of disparate views, associating respective views with a zoom level, classified in class 706, subclass 60.

The inventions are distinct, each from the other because of the following reasons:

- 2. Inventions I - XI are independent. In the instant case, the inventions require different field of search. See MPEP § 806.05(d).

3. Applicant is advised that if any claim presented in a continuation of application is anticipated by, or includes all the limitation of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

4. Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

- a. the inventions have acquired a separate status in the art in view of their different classification;
- b. the invention have acquired a separate status in the art due to their recognized divergent subject matter;
- c. the invention require different field of search (for example, search different classes/subclasses or electronic resources, or employing different search queries);
- d. the prior art applicable to one invention would not likely be applicable to another invention;
- e. the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

5. **Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.**

6. The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144.

7. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

8. Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

9. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

During a telephone conversation with **Laura Ulatowski** on September 10, 2009 no election was made.

Conclusion

Examiner's Opinion:

The examiner has considered the applicant's arguments in light of the claimed invention. Furthermore, the examiner respectfully reminds the applicant that "**during examination, the claims must be interpreted as broadly as their terms reasonably allow**". (MPEP 2111.01 [R-5] I)

It is the goal of the Examiner to move the applicant's claimed invention towards allowability. However, as presently claimed, the applicant's claimed invention is substantially broad and is broad enough to read on the prior art of record. The examiner respectfully request that the applicant consider what the invention is, and where the line between the prior art (cited by the examiner and/or known by the applicant) and the applicant's intended invention lay. This request is made so the examiner can help the applicant arrive at claim language that not only traverses the language taught in the presently pending and/or previously disclosed prior art, but also traverses concepts taught (or suggested) in prior art known by the examiner and/or applicant which has not been cited. Also, the examiner is more than willing to have an interview with applicant, but requests that the applicant disclose what he or she considers to be the most inventive portion of the claimed and/or disclosed invention.

- Regarding the presently pending restriction, the examiner is aware of the fact that claims have all previously been searched. However, the independent claims while similar are drawn to patentably distinct inventions that would be non-obvious

variations of each other. Therefore, due to the fact that the applicant is only entitled to only one invention per patent application, the examiner takes the position that a restriction to only one invention is necessary to further prosecution.

- The examiner respectfully requests that should the applicant submit further correspondence, that the applicant contact the examiner prior to said submittal. This contact should be made to schedule a telephonic or in person interview with the examiner, applicant's representative and if necessary the applicant.

Should the applicant choose to amend, the Examiner respectfully suggests that the applicant more explicitly recite what the applicant considers to be the most novel portion of the disclosed invention in the claimed invention. (The previously cited suggestions are not a recitation of allowable subject matter, but are rather subject matter disclosed/claimed by the applicant which will help further distinguish the claimed invention from the prior art. Furthermore, any amendment will require further searching of the prior art.).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adrian L. Kennedy whose telephone number is (571) 270-1505. The examiner can normally be reached on Mon -Fri 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Vincent can be reached on (571) 272-3687. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2129

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/ALK/

/David R Vincent/

Supervisory Patent Examiner,

Art Unit 2129